

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SHALAINA JOHNSON,

Plaintiff,

v.

ILLINOIS CENTRAL RAILROAD CO.,
a corporation;
SAFETRAN SYSTEMS CORPORATION,
a corporation;
GENERAL ELECTRIC COMPANY,
a corporation;
GENERAL SIGNAL CO., a corporation;
BIRMINGHAM STEEL COMPANY,
a corporation;
MELCO TRANSFER, INC., an Illinois
corporation; and
JOHN STOKES,

Defendants.

Case No. **01C 2180**

Related to General Electric Company
v. Billy E. Adkins, Administrator of the
Estate of Helena R. Adkins, Deceased,
No. 01 C 1307

MAGISTRATE JUDGE LEVIN

DOCKETED

MAR 29 2001

U.S. DISTRICT COURT
CLERK

01 MAR 28 PM 3:20

FILED-ED4

JUDGE PALLMEYER

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446, please take notice that Defendant General Electric Company ("General Electric") has removed this case from the Circuit Court of Cook County, Illinois (Case No. 99 L 3195 M, Consolidated with 99 L 3194 M), in which it is currently pending, to the United States District Court for the Northern District of Illinois, Eastern Division. In support of this removal, General Electric states as follows:

1. This action is removable pursuant to 28 U.S.C. §§ 1331, 1367, and 1441 under this Court's federal question jurisdiction. In particular, this Court has subject matter jurisdiction over this action because it arises under the laws of the United States within the meaning of 28 U.S.C. § 1331, in that Plaintiff's Amended State Court Complaint, on its face, asserts claims based upon alleged "non-compliance with applicable standards, customs, practices, guidelines or rules," all of which are purely and exclusively federal in nature.

2. In particular, the U.S. Secretary of Transportation, acting through the Federal Railroad Administration, has promulgated regulations governing the design, manufacture, construction and materials related to locomotives and their fuel systems. See 49 C.F.R. §§ 229.93, 229.95, 229.97, 229.101, 229.45, 238.03, 238.05, 238.09, 238.223 and 238.423.

3. In addition, this Court has subject matter jurisdiction over this action because it arises under the laws of the United States within the meaning of 28 U.S.C. § 1331, in that the claims at issue are completely preempted and governed by federal statutes and regulations, including the provisions of the Locomotive Inspection Act, 49 U.S.C. § 20701, et seq. (formerly the "Boiler Inspection Act").

4. On or about March 22, 1999, Plaintiff Shalaine Johnson ("Plaintiff") commenced this action by filing a Complaint against certain defendants, but not General Electric, in the Circuit Court of Cook County, Illinois.

5. Plaintiff's claims arise from an unusually severe derailment of an Amtrak passenger train after it struck a tractor-trailer truck at a crossing in Bourbonnais, Illinois on March 15, 1999.

6. On or about February 28, 2001, General Electric, the co-designer and supplier of the "Genesis" locomotives pulling the Amtrak passenger train at the time of the March 15, 1999 derailment, was served with Plaintiff's Amended Complaint, adding General Electric to her pending action in Cook County Circuit Court.

7. Plaintiff's Amended Complaint asserts claims against General Electric of alleged defects or negligence in the design, manufacture, construction, performance, and choice of materials of the Genesis locomotive.

8. It has long been settled that Congress intended federal law, pursuant to the Locomotive Inspection Act, to occupy completely the entire field of locomotive equipment and safety. Thus, the Locomotive Inspection Act's complete field preemption precludes any state effort

to regulate locomotive design or construction. See, e.g., Napier v. Atl. Coast Line R.R., 272 U.S. 605, 612-13 (1926). Complete field preemption is a doctrine of federal jurisdiction. See, e.g., Moran v. Rush Prudential HMO, Inc., 230 F.3d 959, 967 (7th Cir. 2000).

9. Through the Locomotive Inspection Act, the federal government has established a comprehensive, national regime of locomotive regulation which preempts every state effort, including tort litigation, to establish independent standards for the design, manufacture, construction, performance and materials of locomotives.

10. Because complete preemption is necessary to maintain uniformity of railroad operating standards across state lines and to avoid immediate interference with interstate commerce and travel, state common law claims which seek to impose requirements within the field of locomotive safety are completely preempted, even if no specific federal regulation covers the subject of the alleged defective or negligent design, manufacture, construction or choice of material.

11. Imposing state common law tort or warranty liability upon locomotive manufacturers would impermissibly force them to conform to design, construction and material standards imposed by the states, transferring regulatory power from the Secretary of Transportation to the state courts. The Locomotive Inspection Act forecloses this adverse result.

12. Thus, Plaintiff's state common law tort and implied warranty claims, including those related to alleged defects or negligence in the design, manufacture, construction, performance, and choice of materials of the Genesis locomotive, are completely preempted because they fall within a field that Congress intended the federal government to occupy exclusively.

13. Accordingly, based upon the federal question alleged on the face of Plaintiff's Amended Complaint and based upon the complete federal preemption of all claims alleged in the

Amended Complaint, this action is properly removed to this Court pursuant to 28 U.S.C. § 1441(a) and (c).

14. This Notice is being filed within thirty (30) days of service of Plaintiff's initial pleading on General Electric and is therefore timely and proper pursuant to the provisions of 28 U.S.C. § 1446(b).

15. All of the properly named defendants that are legal entities subject to service of process consent to the removal of this case to Federal District Court. See Letters of Consent attached as Exhibit A.

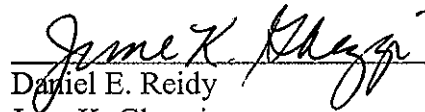
16. Pursuant to 28 U.S.C. § 1446(a), General Electric attaches as Exhibit B a copy of all process, pleadings, orders and other papers of every kind related to this action that have been served upon General Electric.

17. Written notification of the filing of this Notice of Removal, together with a copy of the Notice of Removal, will be provided to the Plaintiff and will be filed with the Circuit Court of Cook County, Illinois, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, General Electric requests that this case be removed from the Circuit Court of Cook County, Illinois to the United States District Court for the Northern District of Illinois, Eastern Division, and that there be no further proceeding in Case No. 99 L 3195 M filed in the Circuit Court of Cook County, Illinois.

Date: March 28, 2001

Respectfully submitted,


Daniel E. Reidy
June K. Ghezzi
JONES, DAY, REAVIS & POGUE
77 West Wacker
Chicago, Illinois 60601-1692
(312) 782-3939

Attorneys for Defendant
General Electric Company

Of Counsel:

Paul M. Pohl
Charles H. Moellenberg, Jr.
JONES, DAY, REAVIS & POGUE
One Mellon Bank Center
500 Grant Street, Suite 3100
Pittsburgh, PA 15219
(412) 391-3939

David B. Potter
Jennifer K. Eggers
OPPENHEIMER WOLFF & DONNELLY, LLP
3400 Plaza VII Building
45 South Seventh Street
Minneapolis, MN 55402
(612) 607-7000

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on March 28, 2001, a true and correct copy of Defendant General Electric Company's Notice of Removal was served, via first-class U.S. mail, postage prepaid, on the following:

ATTORNEYS FOR PLAINTIFFS

Michael K. Demetrio
David C. Wise
CORBOY & DEMETRIO, P.C.
33 North Dearborn Street
Suite 2100
Chicago, IL 60602

**ILLINOIS CENTRAL RAILROAD COMPANY and the NATIONAL RAILROAD
PASSENGER CORPORATION (AMTRAK)**

Susan Laing
ANDERSON BENNETT & PARTNERS
55 E. Monroe Street, Ste. 3650
Chicago, IL 60603

MELCO TRANSFER and JOHN R. STOKES

Bradford S. Purcell
PURCELL & WARDROPE CHTD.
300 South Wacker Drive
Suite 80
Chicago, IL 60606

SAFETRAN SYSTEMS CORPORATION

James B. Cohoon
BISTLINE & COHOON, A Law Corporation
23456 Hawthorne Boulevard, Suite 130
Torrance, CA 90505

GENERAL SIGNAL CO.

Ross B. Bricker
JENNER & BLOCK
One IBM Plaza
Chicago, IL 60611

BIRMINGHAM STEEL

Robert J. Franco II
BOLLINGER, RUBERRY & GARVEY
500 West Madison Street, 23rd Floor
Chicago, IL 60606

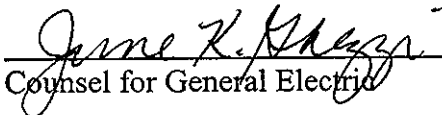

Counsel for General Electric

EXHIBIT A

03/28/2001 10:54 4123947959

JONES DAY

PAGE 03/03

03/27/2001 17:39 FAX 012 607
Mar-27-01 10:24am From-ANDERSON ETT

OPPENHEIMER LAW FIRM
773

T-832 P.002/002 0002
F-528

ANDERSON, BENNETT & PARTNERS

19 EAST MONROE
SUITE 3650
CHICAGO, ILLINOIS 60603
(312) 673-7800
FACSIMILE (312) 673-7781

WILLIAM G. ANDERSON, III
BETHANN J. BARKER
M. ELIZABETH BENNETT
MARY ELLEN BUSCH
CHAD M. CASTRO
MARILYN CLAUDON
PATRICIA J. FOLTZ

LAURA J. GINETT
DIANE L. JENNINGS
SUSAN K. LAING
MARK J. LIRA
JASON A. PAXSON
E. DENNIS RASOR
DAVID J. SLAWKOWSKI

March 27, 2001

VIA FACSIMILE

Ms. Jennifer Eggers
Oppenheimer, Wolff & Donnelly
Plaza VII, Suite 3400
45 South Seventh Street
Minneapolis, Minnesota 55402

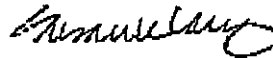
Re: *Bourbonnais Litigation*

Dear Ms. Eggers:

This confirms our conversation earlier today in which I stated that my clients, Illinois Central Railroad Company and National Railroad Passenger Corporation, consent to the removal to federal court of all cases arising out of the March 15, 1999, Bourbonnais accident in which the Illinois Central and/or Amtrak are parties.

Yours very truly,

ANDERSON, BENNETT & PARTNERS



By: Susan K. Laing

SKL:dm

JONES, DAY, REAVIS & POGUE

500 GRANT STREET • SUITE 3100

PITTSBURGH, PENNSYLVANIA 15219-2502

TELEPHONE: 412-391-3939 • FACSIMILE: 412-394-7959

WRITER'S DIRECT NUMBER:

412-394-7231

jpdonohue@jonesday.com

305216
762625-048002
1047111v1

March 28, 2001

VIA FACSIMILE (312) 466-8001

Vincent Tomkiewicz, Esq.
Bollinger, Ruberry & Garvey
500 West Madison Street, 23rd Floor
Chicago, IL 60606

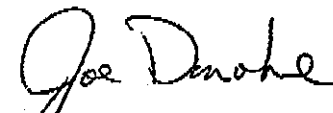
Re: Bourbonnais Derailment Cases

Dear Mr. Tomkiewicz:

This will confirm our telephone conversation of today and Mickey Pohl's telephone conversation with Robert Franco of March 22, 2001, wherein you and Mr. Franco indicated on behalf of your client, Birmingham Steel Company, that you consent to the removal of the cases listed on Attachment A, appended hereto, dealing with those arising from the Bourbonnais derailment.

Please feel free to call me if you have any questions or wish to discuss this further.

Very truly yours,


Joseph P. Donohue

cc: Paul Michael Pohl, Esq.

03/28/2001 10:54 4123947959

JONES DAY

PAGE 02/03

Sent By: PURCELL & WARDROPE;

312 427 3944;

Mar-27-01 4:48PM;

Page 2/2

JONES, DAY, REAVIS & POGUE

500 GRANT STREET • SUITE 3100
PITTSBURGH, PENNSYLVANIA 15219-2302
TELEPHONE: 412-391-3939 • FACSIMILE: 412-394-7959

WRITER'S DIRECT NUMBER:
412-394-7900
pmpohl@jonesday.com

305216
765625-048002
1046923v1

March 26, 2001

VIA FEDERAL EXPRESS

Brad Purcell, Esq.
Purcell & Wardrop
300 South Wacker Drive, 8th Floor
Chicago, IL 60606

Re: Bourbonnais Detainment Cases

Dear Mr. Purcell:

This will confirm our telephone conversation of March 21, 2001, wherein you indicated on behalf of your clients, Melco Transfer, Inc. and John Stokes, that you consent to the removal of the cases listed in Attachment A, appended hereto.

I have enclosed a draft of General Electric's Notice of Removal for your review. To confirm your consent to removal, please sign this letter and return it to me by facsimile at (412) 394-7959.

Please feel free to call me if you have any questions or wish to discuss this further.

Very truly yours,

Michael Pohl / JPD

Paul Michael Pohl

AGREED:


Brad Purcell
Counsel for Melco Transfer, Inc.
and John Stokes

BISTLINE & COHOON

A LAW CORPORATION

JAMES B. COHOON
GREGORY D. BISTLINE
TED H. LUYMES
GREGORY A. DILTS
ADRIENNE R. HAHN
JOHN M.C. REILLY

SKYPARK BLDG. 5, SUITE 130
23456 HAWTHORNE BOULEVARD
TORRANCE, CALIFORNIA 90505-4717

(310) 378-6360

FAX: (310) 378-6352

E-MAIL: law@bistlinecohoon.com

PASADENA OFFICE

2500 E. COLORADO BLVD.
SUITE 340
PASADENA, CA 91107-3766
(626) 440-0591
FAX: (626) 440-0691

March 27, 2001

VIA UPS OVERNIGHT MAIL

June Ghezzi, Esq.
Jones, Day, Reavis & Pogue
77 West Wacker
Chicago, Illinois 60601-1692

RE: **Bourbonnais Train Accident Cases**
Our Client: Safetran Systems Corporation


Dear Ms. Ghezzi:

At the request of your colleague Joseph Donohue, we are sending you a copy of his letter to Jim Cohoon, bearing Mr. Cohoon's original signature, indicating his agreement to your petition for removal.

Please give us a call with any questions you may have regarding this matter.

Very truly yours,

BISTLINE & COHOON
A Law Corporation



CHRIS M. CAMERON
Legal Assistant to James B. Cohoon

03/28/01 13:53

NO.673 F003/003

LAW OFFICES
JENNER & BLOCK, LLC

ONE IBM PLAZA
CHICAGO, ILLINOIS 60611

PHONE: (312) 222-8350
FAX: (312) 827-0484

WRITER'S DIRECT DIAL: (312) 923-4524
WRITER'S DIRECT FAX: (312) 840-7524
INTERNET ADDRESS: rbricker@jenner.com

March 28, 2001

VIA FACSIMILE

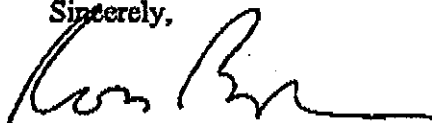
Jennifer K. Eggers, Esq.
Oppenheimer, Wolff & Donnelly
Plaza VII, Suite 3400
45 South Seventh Street
Minneapolis, Minnesota 55402

Re: Bourbonnais Litigation

Dear Ms. Eggers:

This letter confirms that my client, General Signal Company, consents to the removal to federal court of all cases arising out of the March 1999 Bourbonnais accident in which General Signal Company is named as a party defendant.

Sincerely,



Ross B. Bricker

RBB/cd

cc: Roibin J. Ryan, Esq.

DALLAS OFFICE
3100 MARK ONE CENTER
1717 MAIN STREET
DALLAS, TX 75201
PHONE: (214) 748-8700
FAX: (214) 748-8787

LAKE FOREST OFFICE
ONE WESTMINSTER PLACE
LAKE FOREST, IL 60048
PHONE: (847) 288-8200
FAX: (847) 288-7810

WASHINGTON OFFICE
801 THIRTEENTH STREET, N.W.
SUITE 1200 SOUTH
WASHINGTON, D.C. 20005
PHONE: (202) 638-8000
FAX: (202) 638-8088

TOTAL P.02

EXHIBIT B

2120 - Served
 2220 - Not Served
 2320 - Served By Mail
 2420 - Served By Publication
SUMMONS

2121 - Served
 2221 - Not Served
 2321 - Served By Mail
 2421 - Served By Publication
ALIAS - SUMMONS

(7-90) CCG-I

MKD/DCW/mm 99-803 2/23/01 #02329

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT - LAW DIVISION**

SHALAINA JOHNSON,

Plaintiff,

v.

ILLINOIS CENTRAL RAILROAD CO.,

a corporation;

SAFETRAN SYSTEMS CORPORATION,

a corporation;

GENERAL ELECTRIC COMPANY,

a corporation;

GENERAL SIGNAL CO., a corporation;

BIRMINGHAM STEEL COMPANY,

a corporation;

MELCO TRANSFER, INC., an Illinois

corporation; and

JOHN STOKES,

Defendants.

No. 99 L 3195 M

Consolidated with 99 L 3194 M

PLEASE SERVE:

SEE ATTACHED SERVICE LIST

COPY

SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance in the office of the clerk of this court (located in the Richard J. Daley Center, Room * 801, Chicago, Illinois 60602) within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT, A COPY OF WHICH IS HERETO ATTACHED.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

WITNESS, _____, 2001

AURELIA PUCINSKI Clerk of Court

Date of service: FEB 28 2001, 2001

Name: David C. Wise/Corboy & Demetrio
 Attorney for: Plaintiff
 Address: 33 North Dearborn Street, Suite 2100
 City: Chicago, Illinois 60602
 Telephone: 312-346-3191
 Atty. No.: 02329

AURELIA PUCINSKI, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

*Law Division Room 801
 Chancery-Divorce Division Room 802
 County Division Room 801
 Probate Division Room 1202

SERVICE LIST

1. **Safetran Systems Corporation**
c/o CT Corporation System
208 South LaSalle Street
Chicago, Illinois 60604
2. **General Electric Company**
c/o CT Corporation System
208 South LaSalle Street
Chicago, Illinois 60604
3. **Birmingham Steel Corporation**
c/o The Illinois Corporation Service Company
700 South 2nd Street
Springfield, Illinois 62704
4. **General Signal Corporation**
c/o The Corporation Trust Company
1209 Orange Street
Wilmington, Delaware 19801

MKD/DCW/mm 99-803 2/19/01 #02329

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION

SHALAIN JOHNSON,)
)
Plaintiff,)
)
v.)
)
ILLINOIS CENTRAL RAILROAD CO.,)
a corporation;)
SAFETRAN SYSTEMS CORPORATION,)
a corporation;)
GENERAL ELECTRIC COMPANY,)
a corporation;)
GENERAL SIGNAL CO., a corporation;)
BIRMINGHAM STEEL COMPANY,)
a corporation;)
MELCO TRANSFER, INC., an Illinois)
corporation; and)
JOHN STOKES,)
)
Defendants.)

No. 99 L 3195 M

Consolidated with 99 L 3195 M

FILED-1
FEB 23 PM 2:37
CIRCUIT COURT OF COOK
COUNTY ILLINOIS
LAW DIVISION
CLERK

AMENDED COMPLAINT AT LAW

Plaintiff, SHALAIN JOHNSON, complaining of defendants, ILLINOIS CENTRAL RAILROAD CO., a corporation (hereinafter referred to as I.C.), SAFETRAN SYSTEMS CORPORATION, a corporation (hereinafter referred to as SAFETRAN), GENERAL ELECTRIC COMPANY, a corporation (hereinafter referred to as G.E.), GENERAL SIGNAL CO., a corporation (hereinafter referred to as GENERAL SIGNAL), BIRMINGHAM STEEL COMPANY, a corporation (hereinafter referred to as BIRMINGHAM), MELCO TRANSFER, INC., an Illinois corporation (hereinafter referred to as MELCO), and JOHN STOKES (hereinafter referred to as STOKES), states:

COMMON FACTUAL ALLEGATIONS

1. On and before March 15, 1999, I.C. owned, operated, managed, maintained and controlled certain railroad tracks running in generally a north/south direction at the grade crossing intersection with McKnight Road, an east/west public highway in Bourbonnais, Illinois.

2. On and before March 15, 1999, I.C. owned, operated, managed, maintained and controlled the railroad grade crossing/signal protection system and siding tracks located at and near the McKnight Road crossing.

3. On March 15, 1999 at the time and place aforesaid, Amtrak operated a passenger train commonly known as the "City of New Orleans" southbound on the I.C. railroad tracks toward the McKnight Road crossing.

4. At said time and place, STOKES was driving a semi-tractor trailer truck eastbound on McKnight Road toward the I.C. grade crossing.

5. At said time and place, as the Amtrak train approached the McKnight Road crossing, the grade crossing/signal protection system failed to give proper or suitable warning to STOKES of the approach of the train.

6. At said time and place, the semi-tractor trailer entered the McKnight crossing.

7. At said time and place, as STOKES was traversing the McKnight Road crossing, the Amtrak train crashed into the semi-tractor trailer truck.

8. SHALAINA JOHNSON was a passenger on board the train and was injured in the crash.

9. On and before March 15, 1999, G.E. was in the business of designing, manufacturing, selling and distributing train engines/locomotives.

10. On and before March 15, 1999, G.E. was a merchant in the business of designing, manufacturing, selling and distributing train engines/locomotives.

11. Prior to March 15, 1999, G.E. designed, manufactured, distributed, sold and placed certain train engines/locomotives into the stream of commerce.

12. Prior to March 15, 1999, in its contract for sale, G.E. impliedly warranted that the train engines/locomotives were merchantable.

13. Prior to March 15, 1999, in its contract for sale, G.E. impliedly warranted that the train engines/locomotives were fit for the particular purpose of safely withstanding a collision with a foreseeable vehicle at a grade crossing and protecting passengers and crew.

14. Prior to March 15, 1999, and at the time it sold the train engines/locomotives, G.E. knew that train passengers and crew members were intended beneficiaries of the implied warranties.

15. On March 15, 1999, G.E. train engines/locomotives were being operated as part of the Amtrak City of New Orleans train.

16. At said time and place, after the collision and ensuing crash, one or more fuel tanks on the G.E. engines/locomotives ruptured and allowed fuel to escape.

17. At said time and place, the fuel from the G.E. fuel tanks flowed into or near the sleeper cars, ignited, burned and injured and killed passengers.

18. On and before March 15, 1999, GENERAL SIGNAL was in the business of designing, manufacturing, distributing, selling, installing and/or maintaining "GENERAL SIGNAL Automatic Highway Crossing Gates" ("crossing gates").

19. On and before March 15, 1999, GENERAL SIGNAL was a merchant in the

business of designing, manufacturing, selling and distributing "GENERAL SIGNAL Automatic Highway Crossing Gates" ("crossing gates").

20. Prior to March 15, 1999, GENERAL SIGNAL designed, manufactured, distributed, sold and installed "GENERAL SIGNAL Automatic Highway Crossing Gates" that were in place at the McKnight Road crossing.

21. Prior to March 15, 1999, and in its contract for sale, GENERAL SIGNAL impliedly warranted that the "GENERAL SIGNAL Automatic Highway Crossing Gates" system was merchantable.

22. Prior to March 15, 1999, and in its contract for sale, GENERAL SIGNAL impliedly warranted that the "GENERAL SIGNAL Automatic Highway Crossing Gates" system was fit for the particular purpose of correctly timing train crossings and giving suitable warning to passing motor vehicles.

23. Prior to March 15, 1999, and at the time it sold the "GENERAL SIGNAL Automatic Highway Crossing Gates" system, GENERAL SIGNAL knew that train passengers and crew members were intended beneficiaries of GENERAL SIGNAL's implied warranties.

24. On March 15, 1999 as the Amtrak train was approaching the McKnight grade crossing, the GENERAL SIGNAL gates failed to properly operate and activate.

25. On and before March 15, 1999, SAFETRAN was in the business of designing, manufacturing, distributing and selling grade crossing protective systems ("GCPS") including the SAFETRAN 3000 system.

26. On and before March 15, 1999, SAFETRAN was a merchant in the business of designing, manufacturing, selling and distributing grade crossing protective systems including

the SAFETRAN 3000 system.

27. Prior to March 15, 1999, SAFETRAN designed, manufactured, distributed and sold a SAFETRAN 3000 system to I.C. and participated in the placement, installation and or monitoring of the GCPS at the McKnight Road grade crossing as well as the GCPS at the crossings to the immediate north and south of the McKnight crossing.

28. Prior to March 15, 1999, and in its contract for sale, SAFETRAN impliedly warranted that the GCPS was merchantable.

29. Prior to March 15, 1999, in its contract for sale, SAFETRAN impliedly warranted that the GCPS was fit for the particular purpose of correctly coordinating the GCPS with the passing of trains across the crossing.

30. Prior to March 15, 1999, and at the time it sold the aforesaid GCPS, SAFETRAN knew that train passengers and crew members were intended beneficiaries of SAFETRAN's implied warranties.

31. On and before March 15, 1999, I.C. retained the right to control the engineer of the Amtrak train by requiring that he operate that train pursuant to the rules of the I.C. and follow the directives of I.C. employees or agents.

32. On and before March 15, 1999, the Amtrak train engineer was an agent of I.C. and was acting in the scope of and in furtherance of that relationship.

33. On and before March 15, 1999, I.C. placed or allowed rail cars to be placed on the siding track immediately to the north of the railroad crossing which limited the line of sight of those attempting to cross the grade crossing and the line of sight of the City of New Orleans' train engineer.

34. On and before March 15, 1999, I.C. placed or allowed railroad cars to be placed on the side track immediately south of the crossing, which collided with the engine of the City of New Orleans, causing the train's engines to derail, tip over and/or release fuel.

35. On and before March 15, 1999, BIRMINGHAM owned, operated, managed, maintained and controlled a facility located near the McKnight Road crossing.

36. At said time and place, BIRMINGHAM caused and/or allowed semi-tractor trailers loaded with steel products to leave its facility at a location immediately to the west of the McKnight Road crossing, with the only path of egress being to traverse McKnight Road eastbound and cross the railroad tracks.

37. At said time and place, BIRMINGHAM knew, or in the exercise of reasonable care should have known, that high speed rail traffic operated by Amtrak utilized the tracks and McKnight crossing which BIRMINGHAM's trucks were required to cross when leaving the BIRMINGHAM facility.

38. On or before March 15, 1999, BIRMINGHAM requested and/or directed STOKES and/or his employer, MELCO, to come to the BIRMINGHAM facility for the purpose of loading the semi-tractor trailer with steel ribar so STOKES could deliver the ribar to a customer of BIRMINGHAM's.

39. On March 15, 1999, BIRMINGHAM loaded STOKES's semi-tractor trailer, provided STOKES with bills of lading for the delivery of the ribar, directed STOKES to whom, where and when to deliver the ribar and allowed STOKES to leave its facility along McKnight Road directly to the west of the aforesaid railroad crossing.

40. At said time and place, STOKES was the agent or employee of BIRMINGHAM.

and BIRMINGHAM retained the right to control the conduct and actions of STOKES with respect to the pickup, loading, movement and delivery of the aforesaid ribar.

41. At said time and place, BIRMINGHAM owned, operated, managed, maintained and controlled side tracking immediately to the south of the McKnight Road crossing which BIRMINGHAM utilized to bring railroad cars onto its facility.

42. At said time and place, BIRMINGHAM placed or allowed rail cars to be placed on its siding track immediately to the south of the McKnight Road crossing and the lead engines of the City of New Orleans struck those rail cars resulting in the engines turning over.

43. At said time and place, under the apparent authority of the Illinois Commerce Commission, MELCO and STOKES, and each of them, were transporting large amounts of steel on behalf of BIRMINGHAM.

44. At said time and place, STOKES was the employee and/or agent of MELCO and was working in the scope of his employment.

45. At said time and place, BIRMINGHAM retained the right to control MELCO and STOKES.

46. At said time and place, MELCO and STOKES were agents of BIRMINGHAM and were acting within the scope of and in furtherance of that relationship.

47. SHALAINA JOHNSON was a passenger on board the train and was injured in the crash.

Count I

Defendant, Illinois Central Railroad - Negligence

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

48. On and before March 15, 1999, I.C. was negligent in one or more of the following respects:

- a. Failed to properly or adequately install, operate, inspect, repair or maintain the grade crossing protection system and its various component parts at the aforesaid railroad crossing;
- b. Allowed the line of sight for those attempting to cross the grade crossing to be obscured by allowing train cars to be placed and/or kept on the side track immediately to the north of a grade crossing;
- c. Allowed the line of sight for the engineer of the southbound City of New Orleans to be obscured by allowing train cars to be placed and/or kept on the side track immediately to the north of a grade crossing;
- d. Carelessly and negligently failed to properly time the grade crossing protection system and/or barriers to prevent vehicles from being allowed to enter a grade crossing without allowing sufficient time to clear the grade crossing, given the extremely high speed nature of train traffic crossing the grade crossing at the time and place aforesaid;
- e. Failed to properly and/or adequately inspect, repair, replace or maintain the relays of the grade crossing protection system;
- f. Failed to properly and/or adequately inspect, repair, replace, manage or maintain the cables and wires of the grade crossing protection system;
- g. Failed to properly and/or adequately inspect, repair, replace, manage or maintain the signal gates and all external and internal component parts thereof;
- h. Failed to properly and/or adequately train, supervise, or monitor its employees or agents responsible for maintaining, inspecting, repairing or replacing the grade crossing protection system and all of its component parts;

- i. Failed to properly and/or adequately examine, review, evaluate, read or check inspection and/or maintenance forms or reports made or kept by its employees or agents responsible for the grade crossing protection system;
- j. By and through its agents failed to keep a proper or sufficient lookout for road traffic on, at or near the grade crossing when operating the City of New Orleans;
- k. By and through its agents failed to properly or sufficiently control, slow or brake the City of New Orleans train as it approached the grade crossing;
- l. Placed or allowed to be placed railroad cars on side tracking to the south of the crossing that posed an unreasonable risk to foreseeable southbound rail traffic;
- m. Failed to properly or adequately install component parts of the grade crossing protection system, including, but not limited to, the Safetran 3000 system;
- n. Failed to properly or adequately monitor or adjust the grade crossing protection system to provide the warning times it deemed safe and/or adequate;
- o. Failed to properly or adequately monitor or adjust the grade crossing protection system to determine that it adequately predicted or sensed train movements.

49. As a proximate result of one or more of the aforesaid negligent acts or omissions, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, ILLINOIS CENTRAL RAILROAD COMPANY, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count II

Defendant, Safetran - Product Liability

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

50. On and before March 15, 1999, and at the time SAFETRAN's grade crossing protective systems left its control, the grade crossing protective systems were in an unreasonably dangerous condition in that they were:

- a. Designed, manufactured, distributed and sold without proper or adequate instructions or directions as to their installation;
- b. Designed, manufactured, distributed and sold with a speed predictor system that did not provide consistently accurate predictions of train speeds;
- c. Designed, manufactured, distributed and sold without proper or adequate supervision or monitoring of installation;
- d. Designed, manufactured, distributed or sold without giving proper or adequate speed predictions or warning times to either users of the rails or vehicle users approaching and/or crossing the grade crossing;
- e. Designed, manufactured, distributed and sold with sensor components that did not properly or adequately sense the presence of a train or the speed of a train;
- f. It designed, manufactured, distributed and sold the train/grade crossing warning system in such a way that it failed to properly time the lights and gates at the McKnight crossing to allow safe passage by John Stokes across the crossing;
- g. It designed, manufactured, distributed and sold the train/grade crossing warning system without a suitable warning system to alert owners and operators that the system was malfunctioning.

51. As a proximate result of one or more of these unreasonably dangerous conditions, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, SAFETRAN SYSTEMS CORPORATION, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count III

Defendant, Safetran - Negligence

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

52. On and before March 15, 1999, SAFETRAN was negligent in one or more of the following respects:

- a. Designed, manufactured, distributed and sold a GCPS without proper or adequate instructions or directions as to their installation;
- b. Designed, manufactured, distributed and sold a GCPS with a speed predictor system that did not provide consistently accurate predictions of train speeds;
- c. Designed, manufactured, distributed and sold a GCPS without proper or adequate supervision or monitoring of installation;
- d. Designed, manufactured, distributed or sold a GCPS without giving proper or adequate speed predictions or warning times to either users of the rails or vehicle users approaching and/or crossing the grade crossing;
- e. Designed, manufactured, distributed and sold a GCPS with sensor components that did not properly or adequately sense the presence of a train or the speed of a train;

- f. It designed, manufactured, distributed and sold a GCPS in such a way that it failed to properly time the lights and gates at the McKnight crossing to allow safe passage by John Stokes across the crossing;
- g. It designed, manufactured, distributed and sold a GCPS without a suitable warning system to alert owners and operators that the system was malfunctioning.

53. As a proximate result of one or more of these negligent acts or omissions.

SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, SAFETRAN SYSTEMS CORPORATION, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count IV

Defendant, Safetran - Breach of Implied Warranty of Merchantability

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

54. On and before March 15, 1999, SAFETRAN breached the implied warranty of merchantability in one or more of the following ways:

- a. Designed, manufactured, distributed and sold the GCPS without proper or adequate instructions or directions as to their installation;
- b. Designed, manufactured, distributed and sold the GCPS with a speed predictor system that did not provide consistently accurate predictions of train speeds;
- c. Designed, manufactured, distributed and sold the GCPS without proper or adequate supervision or monitoring of installation;

- d. Designed, manufactured, distributed or sold the GCPS without giving proper or adequate speed predictions or warning times to either users of the rails or vehicle users approaching and/or crossing the grade crossing;
- e. Designed, manufactured, distributed and sold the GCPS with sensor components that did not properly or adequately sense the presence of a train or the speed of a train;
- f. It designed, manufactured, distributed and sold the GCPS in such a way that it failed to properly time the lights and gates at the McKnight crossing to allow safe passage by John Stokes across the crossing;
- g. It designed, manufactured, distributed and sold the GCPS without a suitable warning system to alert owners and operators that the system was malfunctioning.

55. As a proximate result of one or more of these breaches of the implied warranty of merchantability, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, SAFETRAN SYSTEMS CORPORATION, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count V

Defendant, Safetran/Breach of Implied Warranty of Fitness for a Particular Purpose

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

56. On and before March 15, 1999, SAFETRAN breached the implied warranty of fitness for a particular purpose in one or more of the following ways:

- a. Designed, manufactured, distributed and sold the GCPS without proper or adequate instructions or directions as to their installation;

- b. Designed, manufactured, distributed and sold the GCPS with a speed predictor system that did not provide consistently accurate predictions of train speeds;
- c. Designed, manufactured, distributed and sold the GCPS without proper or adequate supervision or monitoring of installation;
- d. Designed, manufactured, distributed or sold the GCPS without giving proper or adequate speed predictions or warning times to either users of the rails or vehicle users approaching and/or crossing the grade crossing;
- e. Designed, manufactured, distributed and sold the GCPS with sensor components that did not properly or adequately sense the presence of a train or the speed of a train;
- f. It designed, manufactured, distributed and sold the GCPS in such a way that it failed to properly time the lights and gates at the McKnight crossing to allow safe passage by John Stokes across the crossing;
- g. It designed, manufactured, distributed and sold the GCPS without a suitable warning system to alert owners and operators that the system was malfunctioning.

57. As a proximate result of one or more of these breaches of the implied warranty of fitness for a particular purpose, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, SAFETRAN, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count VI

Defendant, General Electric/Product Liability

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

58. On March 15, 1999, and at the time they left G.E.'s control, said train engines/locomotives were in an unreasonably dangerous condition in one or more of the following respects:

- a. They were designed, manufactured, distributed and sold with insufficient durability to withstand a foreseeable collision and remain intact;
- b. They were designed, manufactured, distributed and sold without a protective device to prevent fuel from escaping in the event a fuel tank was ruptured;
- c. They were designed, manufactured, distributed and sold in such a way that the fuel tanks were not sufficiently protected from foreseeable crash forces;
- d. They were manufactured, designed and sold with metal and component parts that ruptured due to their defective nature;
- e. They were manufactured, designed and sold without proper pre-distribution testing or inspection;
- f. They were manufactured, designed and sold without proper or adequate safeguards or adequate protective devices to prevent the continued flow of fuel out of the fuel tanks after the rupture or breach of the tanks;
- g. They were designed, manufactured, distributed and sold in non-compliance with applicable standards, customs, practices, guidelines or rules.

59. As a proximate result of one or more of these unreasonably dangerous conditions, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, GENERAL ELECTRIC COMPANY, a corporation, for a sum in excess of the jurisdictional

limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count VII

Defendant, General Electric - Negligence

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

60. On and before March 15, 1999, G.E. was negligent in one or more of the following respects:

- a. It designed, manufactured, distributed and sold the train engines/locomotives with insufficient durability to withstand a foreseeable collision and remain intact;
- b. It designed, manufactured, distributed and sold the train engines/locomotives without a protective device to prevent fuel from escaping in the event a fuel tank was ruptured;
- c. It designed, manufactured, distributed and sold the train engines/locomotives in such a way that the fuel tanks were not sufficiently protected from foreseeable crash forces;
- d. It manufactured, designed and sold the train engines/locomotives with metal and component parts that ruptured due to their defective nature;
- e. It manufactured, designed and sold the train engines/locomotives without proper pre-distribution testing or inspection;
- f. It manufactured, designed and sold the train engines/locomotives without proper or adequate safeguards or adequate protective devices to prevent the continued flow of fuel out of the fuel tanks after the rupture or breach of the tanks;
- g. It designed, manufactured, distributed and sold the train engines/locomotives in non-compliance with applicable standards, customs, practices, guidelines or rules.

61. As a proximate cause of one or more of these negligent acts or omissions,

SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant. GENERAL ELECTRIC COMPANY, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count VIII

Defendant, General Electric/Breach of Implied Warranty of Merchantability/Fuel Tank

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

62. On and before March 15, 1999, G.E. breached the implied warranty of merchantability in one or more of the following ways:

- a. It designed, manufactured, distributed and sold the train engines/locomotives with insufficient durability to withstand a foreseeable collision and remain intact;
- b. It designed, manufactured, distributed and sold the train engines/locomotives without a protective device to prevent fuel from escaping in the event a fuel tank was ruptured;
- c. It designed, manufactured, distributed and sold the train engines/locomotives in such a way that the fuel tanks were not sufficiently protected from foreseeable crash forces;
- d. It manufactured, designed and sold the train engines/locomotives with metal and component parts that ruptured due to their defective nature;
- e. It manufactured, designed and sold the train engines/locomotives without proper pre-distribution testing or inspection;
- f. It manufactured, designed and sold the train engines/locomotives without proper or adequate safeguards or adequate protective devices to prevent the continued

flow of fuel out of the fuel tanks after the rupture or breach of the tanks;

- g. It designed, manufactured, distributed and sold the train engine/locomotive in non-compliance with applicable standards, customs, practices, guidelines or rules.

63. As a proximate result of one or more of these breaches of the implied warranty of merchantability, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, GENERAL ELECTRIC COMPANY, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count IX

Defendant, General Electric/Breach of Implied Warranty of Fitness for a Particular Purpose

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

64. On and before March 15, 1999, G.E. breached the implied fitness for a particular purpose in one or more of the following ways:

- a. It designed, manufactured, distributed and sold the train engines/locomotives with insufficient durability to withstand a foreseeable collision and remain intact;
- b. It designed, manufactured, distributed and sold the train engines/locomotives without a protective device to prevent fuel from escaping in the event a fuel tank was ruptured;
- c. It designed, manufactured, distributed and sold the train engines/locomotives in such a way that the fuel tanks were not sufficiently protected from foreseeable crash forces;
- d. It manufactured, designed and sold the train

engines/locomotives with metal and component parts that ruptured due to their defective nature;

- e. It manufactured, designed and sold the train engines/locomotives without proper pre-distribution testing or inspection;
- f. It manufactured, designed and sold the train engines/locomotives without proper or adequate safeguards or adequate protective devices to prevent the continued flow of fuel out of the fuel tanks after the rupture or breach of the tanks;
- g. It designed, manufactured, distributed and sold the train engines/locomotives in non-compliance with applicable standards, customs, practices, guidelines or rules.

65. As a proximate result of one or more of these breaches of the implied warranty of fitness for a particular purpose, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, GENERAL ELECTRIC COMPANY, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count X

Defendant, General Signal - Product Liability

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

66. On March 15, 1999 and at the time they left GENERAL SIGNAL's control and during the period intervening those dates, GENERAL SIGNAL's crossing gates were in an unreasonably dangerous condition in that:

- a. They were designed, manufactured, distributed, sold and installed with a hold clear device that did not adequately or consistently allow the gate armature to descend in a timely fashion;

- b. They were designed, manufactured, distributed, sold and installed with a hold clear device and gearing system that was subject to jamming or delaying the adequate or consistent descent of the gate's arm;
- c. They failed to provide adequate wiring and wiring designs to provide adequate and consistent electrical and/or mechanical controls for the timely and/or consistent activation of the gate's warning mechanisms;
- d. They failed to provide adequate instructions in the maintenance or repair of the crossing gates;
- e. They failed to contain adequate or effect prep holes;
- f. They contained inadequate relays that caused ineffective and/or inconsistent activation of the crossing gate's warning system;
- g. They failed to provide safe or adequate or consistent warnings to users of the rail right of way or the road traffic, for a reasonably expected and indicated time period.

67. As a proximate result of one or more of these unreasonably dangerous conditions, SHALAINÉ JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINÉ JOHNSON, demands judgment against defendant, GENERAL SIGNAL CORPORATION, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count XI

Defendant, General Signal - Negligence

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

68. On and before March 15, 1999, GENERAL SIGNAL was negligent in one or

more of the following ways:

- a. It designed, manufactured, distributed, sold and installed the crossing gates with a hold clear device that did not adequately or consistently allow the gate armature to descend in a timely fashion;
- b. It designed, manufactured, distributed, sold and installed the crossing gates with a hold clear device and gearing system that was subject to jamming or delaying in the adequate or consistent descent of the gate's arm;
- c. It failed to provide adequate wiring and wiring designs to provide adequate and consistent electrical and/or mechanical controls for the timely and/or consistent activation of the gate's warning mechanisms;
- d. It failed to provide adequate instructions in the maintenance or repair of the crossing gates;
- e. It failed to contain adequate or effect prep holes;
- f. It contained inadequate relays that caused ineffective and/or inconsistent activation of the crossing gate's warning system;
- g. It failed to provide safe or adequate or consistent warnings to users of the rail right of way or the road traffic, for a reasonably expected and indicated time period.

69. As a proximate result of one or more of these negligent acts or omissions, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, GENERAL SIGNAL CORPORATION, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count XII

Defendant, General Signal/Breach of Implied Warranty of Merchantability

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

70. On and before March 15, 1999, GENERAL SIGNAL breached the implied warranty of merchantability in one or more of the following ways:

- a. The crossing gates were designed, manufactured, distributed, sold and installed with a hold clear device that did not adequately or consistently allow the gate armature to descend in a timely fashion;
- b. The crossing gates were designed, manufactured, distributed, sold and installed with a hold clear device and gearing system that was subject to jamming or delaying the adequate or consistent descent of the gate's arm;
- c. Failed to provide adequate wiring and wiring designs to provide adequate and consistent electrical and/or mechanical controls for the timely and/or consistent activation of the gate's warning mechanisms;
- d. Failed to provide adequate instructions in the maintenance or repair of the crossing gates;
- e. Failed to contain adequate or effect prep holes;
- f. Contained inadequate relays that caused ineffective and/or inconsistent activation of the crossing gate's warning system;
- g. Failed to provide safe or adequate or consistent warnings to users of the rail right of way or the road traffic, for a reasonably expected and indicated time period.

71. As a proximate result of one or more of these breaches of the implied warranty of merchantability, SHALAINÉ JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, GENERAL SIGNAL CORPORATION, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count XIII

Defendant, General Signal/Breach of Implied Warranty of Fitness for a Particular Purpose

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

72. On and before March 15, 1999, GENERAL SIGNAL breached the implied warranty of fitness for a particular purpose in one or more of the following ways:

- a. The crossing gates were designed, manufactured, distributed, sold and installed with a hold clear device that did not adequately or consistently allow the gate armature to descend in a timely fashion;
- b. The crossing gates were designed, manufactured, distributed, sold and installed with a hold clear device and gearing system that was subject to jamming or delaying the adequate or consistent descent of the gate's arm;
- c. Failed to provide adequate wiring and wiring designs to provide adequate and consistent electrical and/or mechanical controls for the timely and/or consistent activation of the gate's warning mechanisms;
- d. Failed to provide adequate instructions in the maintenance or repair of the crossing gates;
- e. Failed to contain adequate or effect prep holes;
- f. Contained inadequate relays that caused ineffective and/or inconsistent activation of the crossing gate's warning system;
- g. Failed to provide safe or adequate or consistent warnings to users of the rail right of way or the road traffic, for a reasonably expected and indicated time period.

73. As a proximate result of one or more of these breaches of the implied warranty of fitness for a particular purpose, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, GENERAL SIGNAL CORPORATION, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count XIV

Defendant, Birmingham Steel

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

74. On and before March 15, 1999, BIRMINGHAM was negligent in one or more of the following respects:

- a. Failed to provide a safe or adequate manner of egress from its facility for semi-tractor trailers loaded with large amounts of ribar;
- b. Overloaded the semi-tractor trailer with ribar;
- c. Failed to provide proper or adequate warnings or instructions in the safe or proper manner of egress from its facility with the type of load of ribar it provided;
- d. Failed to provide proper or adequate personnel to aid semi-tractor trailers with egress from the facility;
- e. Placed, allowed to be placed, or failed to remove rail cars on its siding track immediately to the south of the McKnight crossing, from a location unreasonably close to the main track used by the City of New Orleans or other high speed trains;
- f. Failed to provide semi-tractor truck users egressing from its facility with an adequate or proper line of sight to the north, when BIRMINGHAM knew or in the exercise of reasonable care should have known its failure to do so

caused an unreasonable risk, given the use and presence of high speed rail traffic;

- g. Caused obstructions of a northbound view for the semi-tractor trailer drivers egressing its facility;
- h. Through its agent or employee, John Stokes, approached and commenced to cross the aforesaid railroad grade crossing when the line of sight of the semi-tractor trailer driver was obscured;
- i. Through its agent or employee, John Stokes, commenced to transverse the aforesaid railroad grade crossing while an Amtrak train was in close proximity to the grade crossing;
- j. Through its agent or employee, John Stokes, failed to clear the railroad grade crossing in a safe or adequate manner when an oncoming southbound passenger train was at or about the crossing;
- k. Through its agent or employee, failed to give a safe or adequate warning, via lights, flashers, horns or other safety signals available of the truck's presence in the railroad grade crossing.

75. As a proximate result of one or more of these negligent acts or omissions, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendant, BIRMINGHAM STEEL CORPORATION, a corporation, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.

Count XV

Defendants, Melco and Stokes

Plaintiff realleges paragraphs 1 through 47 as if fully set forth herein.

76. On and before March 15, 1999, MELCO and STOKES, and each of them, were negligent in one or more of the following respects:

- a. Approached and commenced to cross the aforesaid railroad grade crossing when the line of sight of the semi-tractor trailer driver was obscured;
- b. Commenced to transverse the aforesaid railroad grade crossing while an Amtrak train was in close proximity to the grade crossing;
- c. Failed to clear the railroad grade crossing in a safe or adequate manner when an oncoming southbound passenger train was at or about the crossing;
- d. Failed to give a safe or adequate warning, via lights, flashers, horns or other safety signals available of the truck's presence in the railroad grade crossing.

77. As a proximate result of one or more of these negligent acts or omissions, SHALAINA JOHNSON sustained injuries of a personal and pecuniary nature including but not limited to physical pain, suffering, terror and mental anguish.

WHEREFORE, plaintiff, SHALAINA JOHNSON, demands judgment against defendants, MELCO TRANSFER, INC., an Illinois corporation, and JOHN STOKES, and each of them, for a sum in excess of the jurisdictional limit of the Law Division of the Circuit Court of Cook County, Illinois.


MICHAEL K. DEMETRIO

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CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Shalaine Johnson

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Michael K. Demetrio
Corboy & Demetrio, P.C.
33 N. Dearborn St., 21st Floor
Chicago, IL 60602
(312) 346-3191

DEFENDANTS

Illinois Central Railroad Co., Safetran Systems Corporation, General Electric Company, et al.

01C 2180

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)
Daniel E. Reidy, June K. Ghezzi,
Jason G. Winchester
Jones, Day, Reavis & Pogue
77 West Wacker
Chicago, IL 60601

JUDGE PALLMEYER

FILED - DISTRICT COURT

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- PTF DEF
Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
Citizen of Another State ☒ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☒ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

MAGISTRATE JUDGE LEVIN

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 161 Medicare Act <input type="checkbox"/> 162 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 163 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWC/DWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Selective Service <input type="checkbox"/> 490 Securities/Commodities/Exchange <input type="checkbox"/> 475 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 951 Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

DOCKETED

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

49 U.S.C. Section 20701; and 28 U.S.C. Section 2201

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$ N/A

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO**VIII. This case** ☒ is not a refiling of a previously dismissed action.

☐ is a refiling of case number _____, previously dismissed by Judge _____

DATE

03/28/01

SIGNATURE OF ATTORNEY OF RECORD

June K. Ghezzi

UNITED STATES DISTRICT COURT

Related to General Electric Company v. Billy E. Adkins, Administrator of the Estate of Helena R. Adkins, Deceased, No. 01 C 1307, Eefkow J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

Eastern Division

In the Matter of

SHALAINA JOHNSON

v.

ILLINOIS CENTRAL RAILROAD CO., a
corporation, et al.

Case Number:

JUDGE PALLMEYER

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:
GENERAL ELECTRIC COMPANY, DEFENDANT

MAGISTRATE JUDGE LEVIN

FILED-ED4
01 MAR 28 PM 5:23
U.S. DISTRICT COURT

(A)	(B)
SIGNATURE <i>June K. Ghezzi</i>	SIGNATURE <i>Daniel E. Reidy</i>
NAME June K. Ghezzi	NAME Daniel E. Reidy
FIRM Jones, Day, Reavis & Pogue	FIRM Jones, Day, Reavis & Pogue
STREET ADDRESS 77 West Wacker - Suite 3500	STREET ADDRESS 77 West Wacker - Suite 2500
CITY/STATE/ZIP Chicago, Illinois 60601-1692	CITY/STATE/ZIP Chicago, Illinois
TELEPHONE NUMBER (312) 782-3939	TELEPHONE NUMBER (312) 782-3939
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6185506	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 02306948
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
(C)	(D)
SIGNATURE <i>John G. Winchester</i>	SIGNATURE
NAME Jason G. Winchester	NAME
FIRM Jones, DAY, REavis & Pogue	FIRM
STREET ADDRESS 77 West Wacker - Suite 3500	STREET ADDRESS
CITY/STATE/ZIP Chicago, Illinois 60601-1692	CITY/STATE/ZIP
TELEPHONE NUMBER (312) 782-3939	TELEPHONE NUMBER
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6238377	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>

DOCKETED

MAR 29 2001

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